

Assembly Bill 2562 (Brewer) Chapter 922
Disabled Veterans' Exemption
Late Filing
Portability

Tax levy; effective September 29, 2000. Adds Sections 276.2 and 276.3 to, and repeals and adds Section 276 of, the Revenue and Taxation Code.

This bill, with respect to the disabled veterans' exemption:

- **Permits retroactive exemptions for prior tax years for any eligible person who did not file a claim in that tax year, (§276)**
- **Increases the amount of the partial exemption granted on claims that are filed late, but on or before December 10th of the current tax year, from 80% to 90%, (§276) and**
- **Immediately terminates and transfers the exemption from one home to another. (§276.2, §276.3)**

Sponsor: Orange County Assessor

Late Filing
Revenue and Taxation Code Section 276

This bill repeals the current provisions related to the amount of the exemption granted to a disabled veteran who files a claim for a 100% exemption, after the final filing date which is February 15. In effect, the new provisions would permit a partial exemption, at 85%, to be granted for prior tax years, subject to the limitations on refunds, on property for which the exemption would have been available but for the taxpayer's failure to file a claim. Additionally, for a claim filed between February 16 and December 10, it would increase the amount of the partial exemption from 80% to 90%.

Law Prior To Amendment:

The disabled veterans' exemption is generally available in two amounts¹:

- \$100,000 for qualified persons, hereafter referred to as the "basic exemption" which is provided on a one time filing basis, and

¹ In practice, despite the apparent distinction made in existing law that the amount of the exemption varies according to the type of disability, virtually all claimants meet the "totally disabled" classification. To simplify this discussion, the remainder of the analysis will refer to either the \$100,000 basic exemption or the \$150,000 low income exemption.

- \$150,000 for qualified persons with low incomes, as specified, hereafter referred to as the “low income exemption” which requires a first time filing and subsequent annual filings to reaffirm income eligibility.

With respect to property tax exemptions that require claims, Article XIII, Sec. 6 of the California Constitution provides that the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption which reduces a property tax shall be deemed a waiver of the exemption for that year.

For both levels of disabled veterans’ exemption, first time filings for the basic exemption and first time filings or annual re-filings for the low income exemption, a claim must be filed between the lien date (January 1) and February 15 to receive the full amount of the exemption on the upcoming tax bill for the ensuing fiscal year (July 1 – June 30). If a claim is filed between February 16 and December 10, 80 percent of the exemption is available. If a claim is not made on or before December 10, which is the date the first installment of the property tax bill becomes delinquent, then the exemption may not be applied to taxes owing for that fiscal year. For annual re-filings of the \$150,000 low income exemption, where a claim is not made on or before December 10, the exemption would not be lost completely, but would instead be reduced to the basic exemption level of \$100,000.

The following table summarizes the filing provisions for the disabled veterans’ exemption under prior law.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	\$100,000	One Time Only	\$1,000	\$800 (1000 x 80%)	\$0 for <u>current</u> tax year	No
Low Income Exemption	\$150,000	Annual Refiling	\$1,500	\$1,200 (1,500 x 80%)	\$0 for <u>current</u> tax year	No

The following table summarizes the late filing provisions under the new law.

Exemption	Amount of Exemption	Filing Reqs.	Claim Filed By 2/15	Claim Filed Between 2/16 and 12/10	Claim Filed After 12/10	Refund Prior Tax Years
Basic Exemption	\$100,000	One Time Only	\$1,000	\$900 (1000 x 90%)	\$850 (1,000 x 85%) for current tax year	Yes, refund up to four prior tax years @ \$850 per year
Low Income Exemption	\$150,000	Annual Refiling	\$1,500	\$1,350 (1,500 x 90%)	\$1,275 (1,500 x 85%) for current tax year	Yes, refund up to four prior tax years @ \$1,275 per year

In General:

Disabled Veterans' Exemption. Section 4(a) of Article XIII of the California Constitution grants the Legislature the authority to exempt from property tax, in whole or in part, the home of a person (or a person's spouse) who is injured in military service. This exemption is commonly referred to as the "disabled veterans' exemption." Injuries that qualify a veteran for the exemption include: 1) total disability, 2) blindness and 3) lost use of two or more limbs. The spouse of a disabled veteran is able to maintain the exemption after the veteran's death as long as the spouse is unmarried. Additionally, since 1994, the unmarried spouse of a person who, as a result of a service-connected injury or disease, dies while on active duty is able to qualify for the disabled veterans' exemption.

Section 205.5 of the Revenue and Taxation Code implements the Legislature's authority to provide a property tax exemption for disabled veterans and/or their unmarried surviving spouses. As noted in the table below, the amount of the exemption depends upon 1) type of injury and 2) household income.

Current law establishes, until January 1, 2001, the following exemption amounts:

Disability Type	Basic Exemption	Low Income Exemption²
<ul style="list-style-type: none"> • Blind³ • Lost Two or More Limbs⁴ 	\$40,000	\$60,000
<ul style="list-style-type: none"> • Totally Disabled • Active Duty Death 	\$100,000	\$150,000

Late Filing Provisions. For comparison purposes, the following table summarizes the late filing provisions for various property tax exemptions where a claim must be filed to receive the exemption.

Summary of Late Filing Provisions For Various Exemptions					
Exemption	Amount of Exemption	Filing	Due Date	Late Filing	Retroactive for Prior Tax Years
Disabled Veterans' Basic	\$100,000	One Time	2/15	80%, if by 12/10	No
Disabled Veterans' Low Income	\$150,000	Annual	2/15	80%, if by 12/10	No
Homeowners'	\$7,000	One Time	2/15	80%, if by 12/10	No
Veterans'	\$4,000	Annual	2/15	80%, if by 12/10	No

² For persons who have qualified for the exemption in or before 1983, the income limit is \$34,000; for persons who became qualified after 1983 the income limit is reduced to \$24,000.

³ The Veterans' Administration defines these injured veterans as "totally disabled" thus they instead may qualify for the \$100,000 or \$150,000 exemption.

⁴ The Veterans' Administration defines these injured veterans as "totally disabled" thus they instead may qualify for the \$100,000 or \$150,000 exemption.

Summary of Late Filing Provisions For Various Exemptions					
Welfare Church Cemetery Exhibition Veterans' Organization. Public Libraries Free Museums Schools, Colleges, Universities	Generally 100%; sometimes partial exemption provided where part of property is eligible.	Annual	2/15	90%*, if filed on or before January 1 of the next calendar year.* 85%*, if filed after January 1 of the next calendar year.* *But not more than \$250 is to be charged for those years that taxes can be canceled or refunded.	Yes If taxes were <u>paid</u> ; <u>four</u> years of refunds. If taxes were <u>not</u> <u>paid</u> ; taxes may be canceled for an <u>unlimited</u> number of years.
Religious	Generally 100%.	One Time	2/15	Same as above.	Same as above.

Background:

In 1998, the homes of 15,563 persons received the disabled veterans' exemption. The 10 counties with the most homes receiving the exemption include: San Diego (2,813), Los Angeles (1,359), Sacramento (1,136), Riverside (888), Orange (848), Solano (769), San Bernardino (734), Monterey (669), Contra Costa (501), and Alameda (466).

Comments:

1. **Purpose.** To permit retroactive exemptions for prior tax years, which is not permitted under existing law.
2. **Key Amendments.** The June 29 amendments conforms the changes made to Section 276 with those made by SB 1362 (Poochigian), which also makes similar changes to Section 276 with respect to permitting a partial exemption for late filing for prior tax years.
3. **Under current law, the disabled veterans' exemption cannot be granted unless a claim is filed on or before December 10 of the current tax year.** Article XIII, Section 6 provides that failure to file a claim for an exemption is deemed a waiver of the exemption for *that* year. Generally the filing deadline for the disabled veterans' exemption is relevant only when a claim is made for the *first* time, since a claim for the basic exemption need only be filed once to receive the exemption for all future tax years. (For the low income exemption of \$150,000, claimants must file annually to verify income. If a timely claim is not made, they

do not lose the exemption completely, but they drop down to the basic exemption amount of \$100,000.)

4. **This bill conforms, in essence, the late filing provisions for the disabled veterans' exemption with those provided for various non-profit agencies and governmental properties.** The current late-filing provisions for disabled veterans' exemptions are identical to those for the homeowners' exemption and the veterans' exemption. These exemptions may not be granted retroactively for prior tax years if a claim was not filed for those years. However, statutory law does permit retroactive exemptions for prior years for other exemptions. Specifically, the welfare, church, religious, public schools, colleges, community colleges, state colleges, state universities, free public libraries, exhibition, free museums, veterans' organizations, and cemeteries exemption. The mechanism for granting the exemption retroactively is by means of a "partial exemption" for "late-filing." This bill establishes similar provisions for the disabled veterans' exemption.
5. **This bill effectively permits the disabled veterans' exemption to be retroactively granted, at 85%, for up to four prior tax years, generally by means of refunding taxes previously paid.** Because of the pre-existing statute of limitations on making refunds, the number of prior tax years where the partial exemption could be granted would be limited. Revenue and Taxation Code Section 5096 provides that a claim for refund must be filed within four years after making the payment. There is no statute of limitations placed on the cancellation of taxes otherwise permitted by law. Consequently, if taxes were not paid in prior years, there would be no limit to the number of years that may be canceled⁵.
6. **This measure provides relief to those persons who were eligible for the exemption, but were unaware of the program.** Some homeowners, particularly the unmarried surviving spouses of persons who died while on active duty, are unaware that they are eligible for this exemption. These spouses were not eligible for the exemption until a 1992 constitutional amendment (Proposition 160). In addition, in practice it can take many years for a veteran to receive a disability rating from the USDVA, especially when the veteran has appealed their rating. Some disabled veterans are uninformed of the exemption until after their disability claim is approved by the USDVA and then receive educational material on the benefits available to disabled veterans. (Other bills in this legislative session address this specific instance, of delayed disability ratings, AB 2092 (Reyes) and SB 1362 (Poochigian).

⁵ In practice, action would commence to sell tax-defaulted property after five years of non-payment.

7. **This bill would increase the amount of the exemption for claims filed late, but in the current tax year, by 10 percent.** This bill would increase the partial exemption amount by 10 percent (from 80% to 90%) for claims filed after February 15 but on or before December 10.

Portability

Revenue and Taxation Code Section 276.2, 276.3

This provision allows a disabled veteran to receive the full amount of the exemption in any year in which they move from one home to another.

Sponsor: Assembly Member Marilyn Brewer

Law Prior To Amendment:

Under current law, if a disabled veteran changes their principal place of residence on or after the lien date (January 1), the exemption does not terminate on the first home for the ensuing fiscal year (July 1 – June 30). The exemption is not allowed on the new residence until a claim is filed on the new residence or before February 15 or within 30 days of notice of supplemental assessment for the new residence, whichever occurs first.

In General:

There are two alternatives by which a disabled veterans' exemption may be granted:

Alternative 1: The exemption is available to an eligible owner of a dwelling which is occupied as the owner's place of residence as of 12:01 a.m. January 1 each year. The full exemption is available if a claim is filed on or before February 15, or

Alternative 2: The exemption is available to an eligible owner of a dwelling subject to Supplemental Assessment(s) resulting from a change in ownership or new construction on or after January 1 provided,

- (a) The owner occupies or intends to occupy the property as his or her principal place of residence with 90 days after the change in ownership or completion of new construction and,
- (b) The property is not already receiving the disabled veterans' exemption or another property tax exemption of greater value. If the property received an exemption of a lesser value on the current roll (most often the case, the property is receiving a \$7,000 homeowners' exemption), the difference in the amount between the two exemptions shall be applied to the Supplemental Assessment.

The full exemption (up to the amount of the supplemental assessment)⁶, if any, is available if a claim is filed by the 30th day following the Notice of Supplemental Assessment issued as a result of a change in ownership or completed new construction. If a claim is filed after the 30th day following the Notice of Supplemental Assessment, but on or before the date which the first installment of the supplemental tax bill becomes delinquent, 80 percent of the available exemption may be allowed.

An exemption under Alternative 2 will apply to the Supplemental Assessment(s), if any, and the full exemption will be allowed for the following fiscal year(s).

Comments:

1. **Purpose.** To ensure that a person qualified for the disabled veterans' exemption can immediately receive the full amount of exemption on the new residence.
2. **Key Amendments.** The June 29 amendment renumbers Section 276.1 to Section 276.2 and adds Section 276.3 to clarify that the exemption immediately terminates on the vacated property in conformity to similar amendments made by SB 1362 (Poochigian), which also makes similar changes with respect to portability of the exemption.
3. **This measure ensures that a person who qualifies for the disabled veterans' exemption may immediately transfer the exemption from one home to another.** Under current law, it is possible that a person who purchases a home previously owned by a person who was receiving the disabled veterans' exemption will enjoy the property tax exemption for the remainder of the tax year, whereas the disabled veteran is unable to obtain the full amount of the exemption on their new residence the first year of its purchase. This measure corrects this possibility.
4. **This measure provides that in the event that property receiving a disabled veterans' exemption as described in Section 205.5 is sold or otherwise transferred to a person who is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer.** Thus the new owner will no longer benefit from the disabled veterans exemption.

⁶ For example, although the person would be entitled to a \$100,000 exemption, the supplemental assessment may be for an amount less than \$100,000.